



8011-01p
SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From:
Securities and Exchange Commission
Office of Investor Education and Advocacy
Washington, DC 20549-0213

Extension: Rule 17e-1

OMB Control No. 3235-0217, SEC File No. 270-224

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (“Paperwork Reduction Act”), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 17e-1 (17 CFR 270.17e-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) (the “Investment Company Act”) deems a remuneration as “not exceeding the usual and customary broker’s commission” for purposes of Section 17(e)(2)(A) if, among other things, a registered investment company’s (“fund’s”) board of directors has adopted procedures reasonably designed to provide that the remuneration to an affiliated broker is a reasonable and fair amount compared to that received by other brokers in connection with comparable transactions involving similar securities being purchased or sold on a securities exchange during a comparable period of time and the board makes and approves such changes as it deems necessary. In addition, each quarter, the board must determine that all transactions effected under the rule during the preceding quarter complied with the established procedures. Rule 17e-1 also requires the fund to (i) maintain permanently a written copy of the procedures adopted by the board for complying with the requirements of the rule; and (ii) maintain for a period of six years, the first two in an easily accessible place, a written record of each transaction subject to the rule, setting forth the amount and source of the commission, fee, or other remuneration received; the identity of the broker; the terms of the transaction; and the materials used to determine that the transactions were effected in

compliance with the procedures adopted by the board. The recordkeeping requirements under rule 17e-1 enable the Commission to ensure that affiliated brokers receive compensation that does not exceed the usual and customary broker's commission. Without the recordkeeping requirements, Commission inspectors would have difficulty ascertaining whether funds were complying with rule 17e-1.

Based on an analysis of fund filings, the staff estimates that approximately 775 fund portfolios enter into subadvisory agreements each year.¹ Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 17e-1. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 12d3-1, 10f-3, and 17a-10, and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 17e-1 for this contract change would be 0.75 hours.² Assuming that all 775 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 581 burden hours annually.

Based on an analysis of fund filings, the staff estimates that approximately 1,768 funds use at least one affiliated broker. Based on conversations with fund representatives, the staff estimates approximately 40 percent of transactions that occur under rule 17e-1 would be exempt from its recordkeeping and review requirements. This would leave approximately 1,061 funds³ still subject to the rule's recordkeeping and review requirements. Based on conversations with fund representatives, we estimate that the burden of compliance with the review and recordkeeping requirements of rule 17e-1 is approximately 40 hours per fund per year. This time is spent, for example, reviewing the applicable

¹ Based on information in Commission filings, we estimate that 44.4 percent of funds are advised by subadvisers.

² 3 hours ÷ 4 rules = 0.75 hours.

³ 1,768 funds x 0.6 = 1,061 funds.

transactions and maintaining records. Accordingly, we calculate the total estimated annual internal burden of complying with the review and recordkeeping requirements of rule 17e-1 to be approximately 42,440 hours,⁴ and the total annual burden of the rule's paperwork requirements is 43,021 hours.⁵

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The collection of information under rule 17e-1 is mandatory. The information provided under rule 17e-1 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: PRA_Mailbox@sec.gov.

Kevin M. O'Neill
Deputy Secretary

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⁴ 1,061 funds x 40 hours per fund = 42,440 hours.

⁵ 581 hours + 42,440 hours = 43,021 hours.